



Overview of Conduct and Performance Management for Supervisors and Managers

**Civilian Personnel Management Service
Labor and Employee Relations Division**

PRESENTED BY:

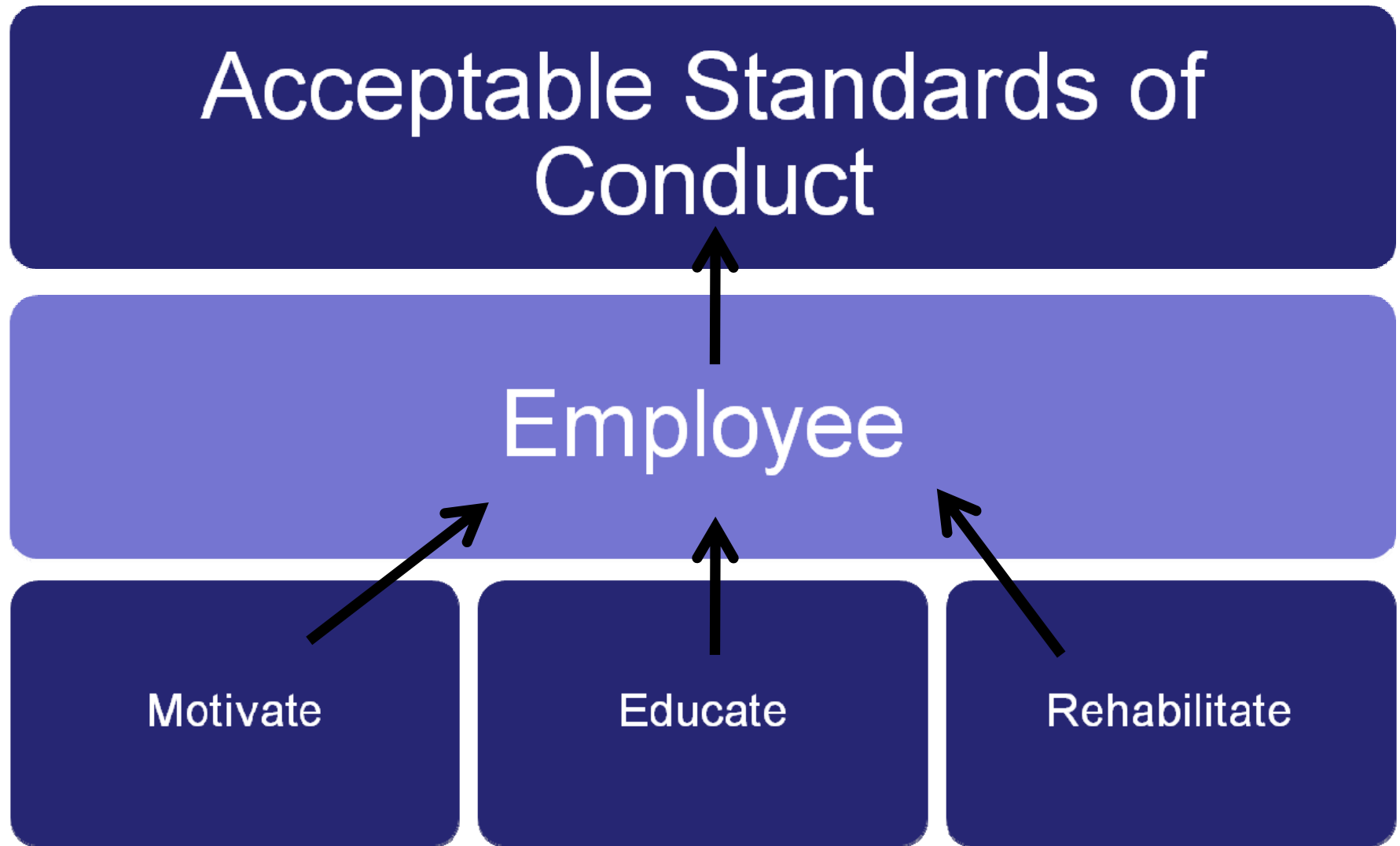
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Definitions

- Due Process
- Efficiency of the Service
- Just Cause
- Progressive Discipline
- Burden of Proof
- Preponderant Evidence
- Substantive Evidence

Why Take Actions?



Conduct-based Actions

- What factors does management consider?
- What is the intent of the action?
- What form do they take?
 - Informal Actions
 - Formal Actions

Non-appealable Adverse Actions

Non-appealable

Suspension
(14 days or less)

Statutory Entitlements

An employee is entitled to:

- Advanced written notice with specific reason
- Reasonable time to answer
- Representation
- Written decision

Note: May grieve final action

Appealable Adverse Actions

Statutory Entitlements

An employee is entitled to:

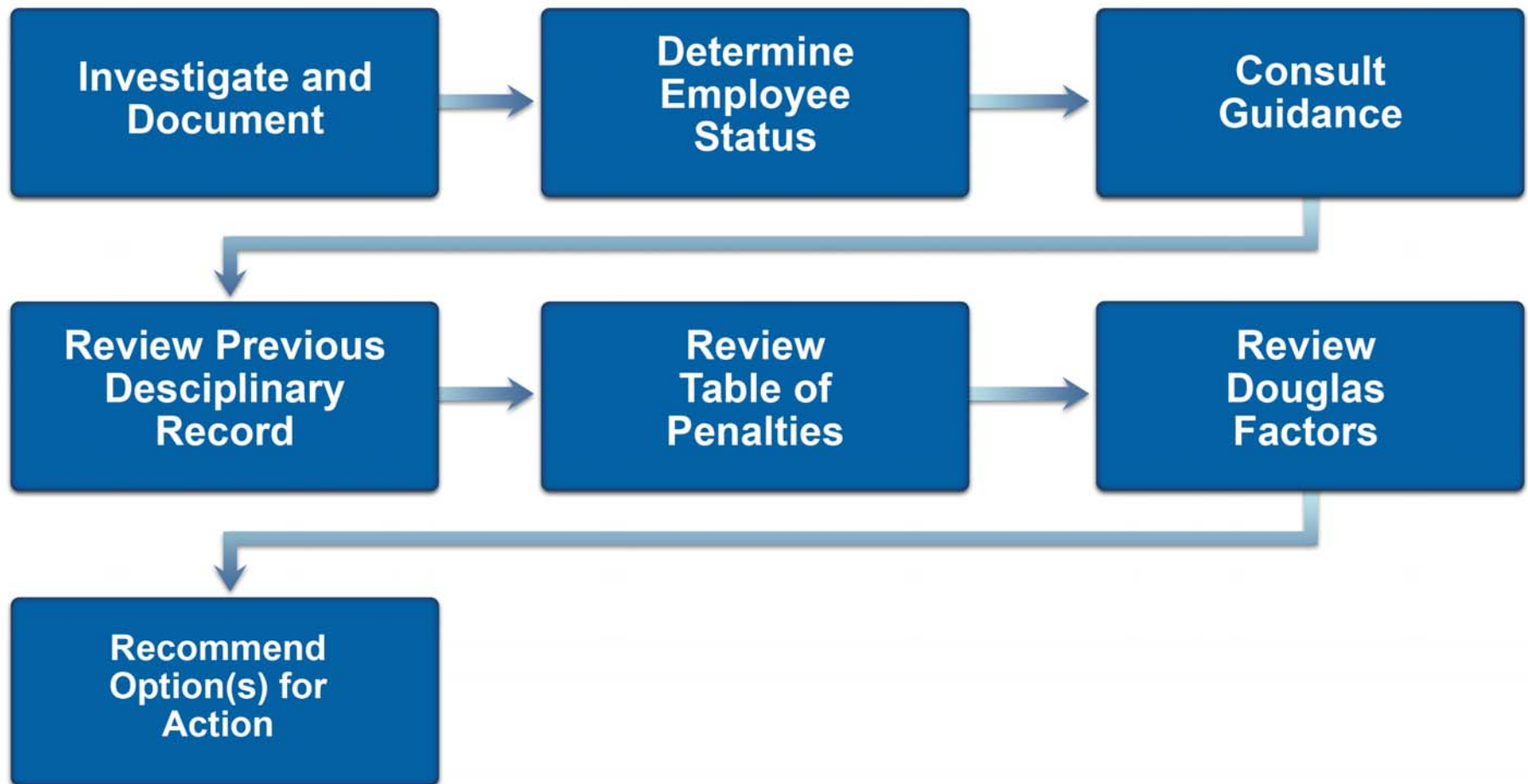
- In most instances, at least 30 days advanced written notice
- Reasonable time, but not less than 7 days, to answer
- Representation
- Written decision

Note: May grieve final action

Appealable

- Suspension of more than 14 days, including indefinite suspension
- Reduction in grade/band
- Reduction in pay
- Furlough for 30 days or less
- Removal

Determining a Course of Action



Douglas Factors (1 through 6)

1. What was the nature and seriousness of the offense?
2. What does the employee do and the job level?
3. What is the employee's past disciplinary record?
4. What is the employee's past work record?
5. Has the offense impacted the employee's ability to perform at a satisfactory level?
6. Is the action consistent with similarly situated employees?

Douglas Factors (7 through 12)

7. What is the local disciplinary record for this type of offense (Table of Penalties)?
8. What is the notoriety of the offense?
9. Had the employee been forewarned about the conduct or behavior in question?
10. Is there potential for the employee to be rehabilitated?
11. Are there any mitigating circumstances?
12. Will the action be effective to deter the behavior or conduct in the future?

Grievance and Appeal Rights

- An employee may grieve a Non-appealable Adverse Action through the NGP or AGS.
- An employee may appeal an Appealable Adverse Action to the MSPB.
- Unless the collective bargaining agreement specifically excludes it, a bargaining unit employee may appeal an Appealable Adverse Action to the MSPB, or may file a grievance through the negotiated grievance procedure, but not both.

What Employees and Supervisors Think about performance



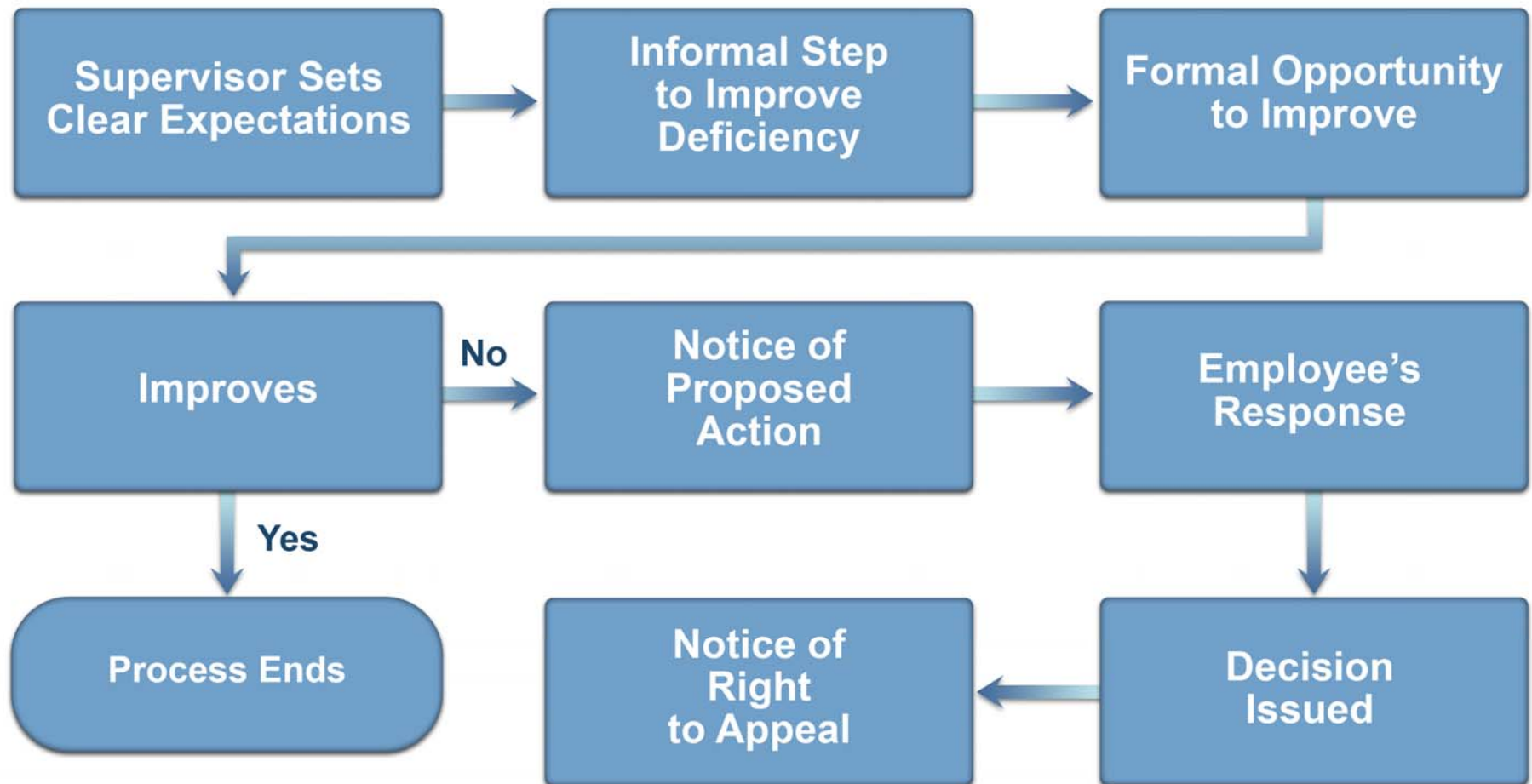
"In my work unit, steps are taken to deal with a poor performer who cannot or will not improve".

What are Performance-based Actions?

Actions taken by management to address:

- Less than acceptable performance
- Unacceptable performance

Chapter 43: Course of Action



Review

- Conduct-based actions are taken to promote the efficiency of the service when a employee refuses or fails to comply with a rule, regulation or law within the workplace.
- To properly address performance issues, management must set clear expectations, monitor the employee's progress, and address poor performance promptly.
- Determining the course of action is ultimately management's responsibility. To help you through the maze of regulations, case law and options available, you should consult with the local ER practitioner.

Questions

